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MAY 15 '98

3:54 PM

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BY HAND

May 15, 1998

Ms. Janice Fort
Equipment Recordation Office
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

RE: Lease Agreement on Rail Cars
Caldwell-Baker Company - Lessor
Southern Illinois Railcar Company - Lessee

Dear Ms. Fort:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11303 is the following document:

An original copy of a Lease Agreement dated August 29, 1997 (as amended October 20, 1997) -- a primary document as defined in the Board's Rules for Recordation of Documents under 49 CFR § 1177. The names and addresses of the parties to this Lease Agreement are:

Lessor: Caldwell-Baker Company
5250 W. 94th Terrace
Prairie Village, KS 66207

Lessee: Southern Illinois Railcar Company
505 Buckeye Drive
Troy, IL 62294

A full description of the railroad equipment covered by this Security Agreement is as follows:

Four hundred and twenty (420) 4,740-4,785 cubic foot, 100 ton, through hatch, gravity discharge, covered hopper cars (reporting marks as listed in Exhibit A of the Lease Agreement).

Counterpart - Robert A. Wimbish

Ms. Janice Fort
May 15, 1998
Page Two

A short summary of the enclosed document to appear in the Commission's index is:

Lease Agreement dated August 29, 1997 (as amended October 29, 1997), between Caldwell-Baker Company (Lessor) and Southern Illinois Railcar Company (Lessee) covering four hundred and twenty (420) 4,740-4,785 cubic foot, 100 ton, through hatch, gravity discharge, covered hopper cars.

A recordation fee of \$26.00 is enclosed.

Please let me know if you need anything else.

Sincerely Yours,


Robert A. Wimbish

Enclosures

cc: William J. Hornung

MAY 15 '98

3-54 PM

RAILCAR LEASE AGREEMENT

THIS RAILCAR LEASE AGREEMENT ("Lease") is made as of August 29, 1997, between **CALDWELL-BAKER COMPANY**, a Delaware corporation ("Lessor") (as owner of the Cars [defined below]) and **SOUTHERN ILLINOIS RAILCAR COMPANY**, an Illinois corporation ("Lessee").

WHEREAS, Lessor is the owner of the railcars more particularly described on the attached Schedule A (the "Cars" or singularly, a "Car"); and

WHEREAS, Lessor desires to lease the Cars to Lessee upon the terms of this Lease and Lessee desires to lease and accept the Cars from Lessor upon the terms of this Lease.

NOW, THEREFORE, in consideration of the covenants, promises and undertakings of the parties hereto, as hereinafter set forth, the parties hereby agree as follows:

1. Lease of Cars.

(a) **Grant of Lease.** Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the Cars. The Cars provided hereunder shall include up to Four Hundred Twenty (420) covered hopper railcars with capacities of 4,740 - 4,785 cubic feet.

(b) **Schedules.** The terms of any schedule attached hereto which shall have been signed by Lessor and Lessee (a "Schedule" or "Schedules") shall control as to the Cars covered by such Schedule over any inconsistent terms contained in this Lease.

2. Term.

(a) **Commencement, Renewal and Expiration.** The term of this Lease with respect to any Car, and Lessee's obligation to pay rent for such Car, shall commence on the Delivery Date (as defined below). The Lease term with respect to all Cars shall expire on October 31, 2000. The last day of the term is herein referred to as the "Expiration Date".

(b) **Delivery.** Each Car shall be deemed delivered to Lessee on the date (the "Delivery Date") it arrives at Lessee's delivery point. Lessor shall use its best efforts to deliver the Cars during the months of November and December, 1997. Lessor's obligation to furnish the Cars shall be subject to all causes beyond Lessor's reasonable control.

(c) **Acceptance.** Each Car shall be delivered suitable for grain service. A Car shall be deemed accepted if Lessee loads such Car. Cars inspected and accepted and any Cars which Lessee does not elect to inspect upon delivery to Lessee shall be

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conclusively deemed to be accepted and meet all requirements of Lessee, unless Lessee notifies Lessor in writing of the unacceptability of the Car(s) within ten (10) days of constructive placement to Lessee. The specifications and marks for the Cars shall be set out on the Schedules describing such Cars.

3. Charges and AAR Agreements.

(a) **Charges.** Lessor shall pay all expenses and charges for the movement of each Car to the delivery point. From and after the acceptance of the Cars, Lessee shall pay, and shall defend and indemnify Lessor against, all switching, transportation, freight (excluding freight charges to and from a repair facility if repairs are for Lessor's account), demurrage and other charges assessed by any railroad or other entity with respect to such Car (including its movement, use or operation). Lessee shall also pay all expenses and charges for the movement of each Car to a return location designated by Lessor upon the expiration or termination of this Lease.

(b) **AAR Agreements.** Lessee and Lessor agree to abide by the Association of American Railroads ("AAR") Car Service and Car Hire Agreements with respect to the Cars.

4. Rent.

(a) **Rent Payments.** Lessee shall pay to Lessor as monthly rent for each Car during the term, the sum of Four Hundred Dollars (\$400.00). Such rent shall become due for each Car upon the applicable Delivery Date unless such Car is reasonably rejected by Lessee as outlined in Section 2(c) above, and shall continue throughout the term, subject to Subsection 14(c), until such Car is redelivered to Lessor in accordance with the terms of this Lease. Lessee shall pay rent monthly in advance on the first day of each month without any deduction or offset whatsoever. Rent for any partial months shall be prorated based upon the actual number of days each Car is in Lessee's service and the actual number of days in the month.

(b) **Allowances.** Insofar as applicable laws and regulations permit, and unless an Event of Default (defined below) hereunder shall have occurred and be continuing, Lessee shall be entitled to a refund of monthly rent payable hereunder in an amount equal to all monthly allowances received by Lessor from railroads for the use of the Cars.

All refunds of rent payable to Lessee shall be paid to Lessee by Lessor within thirty (30) days after the date Lessor has received payment of such monthly Car allowances from the railroads. If any railroad subsequently adjusts allowances, and either pays Lessor additional allowances for the use of the cars or demands a refund of some amount of the allowances paid, Lessor agrees to pay Lessee any additional amount of allowance received, and Lessee agrees to pay Lessor an amount equal to that demanded

for refund by said railroad. However, Lessee's right to an allowance refund, or to any other refund or obligation from Lessor under this agreement terminates one (1) year after the Expiration Date of this Lease and otherwise all of Lessor's obligations under this Lease shall terminate upon the expiration of this Lease. All Cars bearing Lessor's private marks that are leased by Lessee from Lessor on the date such computation is made shall be combined into a single account.

(c) **Equalization.** Lessee agrees to use the Cars so that their total mileage under load will be equal or exceed their mileage empty for each calendar year. If the empty mileage of the Cars for any calendar year exceeds their loaded mileage, Lessee shall equalize such excess empty mileage within the time limit allowed or pay Lessor for such excess empty mileage based on the rate established by the governing tariff, rule or regulation, or at a rate of Two Cents (\$.02) per mile if no tariff, rule or regulation applies. The calculations and payments set forth herein shall be prorated for any fractional part of a year.

(d) **Excess Operational Mileage.** Lessee agrees that if any of the Cars shall travel more than thirty three thousand (33,000) miles, empty and loaded annually, pro rata, Lessee shall pay to Lessor three cents (\$.03) a mile for such excess mileage in addition to rent and other charges hereunder. Charges for excess operational mileage shall be promptly paid by Lessee after receipt of Lessor's invoice.

5. Rent Abatement.

(a) **Railroad/Non-Railroad Shop.** If a Car is delivered to a railcar repair shop ("Shop") for repairs and is not released for shipment to Lessee within five (5) days after such delivery, rent shall abate as of the sixth day after the date such Car is switched onto the property of such Shop and shall be reinstated as of the date such Car is released from such Shop.

(b) **Rent Abatement.** For any Car that is repaired where Lessor and Lessee are each responsible under this Lease for a portion of the repairs, rent shall only abate for the time that repairs for which Lessor is responsible are being performed.

(c) **Derailment.** If any Car is derailed and such derailment was not caused by Lessee and such Car is not rerailed within five (5) days following such derailment, rent shall abate as of the date of such derailment and shall be reinstated as of the date of rerailment. However, if such Car requires repairs, Subsections 5(a) and 5(b) above shall control the date on which rent reinstatement shall occur.

6. Maintenance.

(a) **Definitions.** "Interchange Rules" mean collectively the Field Manual of the AAR Interchange Rules and

the Office Manual of the AAR Interchange Rules. References herein to the Interchange Rules provide performance standards and criteria for the condition of the Cars and their maintenance and repair. However, as between Lessor and Lessee, this Lease, not the Interchange Rules, governs who is responsible for performing and paying for maintenance and repairs. "Lessee Maintenance Items" means hatch covers, outlet gates and components thereof.

(b) Maintenance By Lessor. Lessor shall, at its expense, maintain each Car in good working order and repair and in accordance with the standards set by the Interchange Rules and by the rules of any other applicable regulatory body, provided that Lessor has been notified by Lessee that such Car is in need of repair. However, Lessor shall not be responsible for maintaining Lessee Maintenance Items or for repairs for which the Interchange Rules place responsibility upon third parties or for maintenance, repair or replacement that is Lessee's responsibility pursuant to Subsection 6(c) below.

(c) Maintenance By Lessee. Lessee will cause the Car(s), when in need of repair to Lessee Maintenance Items, to be delivered to a mutually agreeable repair shop (Shop) without cost to Lessor, and Lessee will accept delivery of the Cars at that point when the repairs have been made. In no event shall Lessee perform work upon the Car(s) without prior written permission from Lessor without waiving any Rights or Remedies. If, however, unauthorized work is performed by Lessee, Lessee will be responsible for such work and rent will not abate. (i) Lessee shall, at its expense, maintain all Lessee Maintenance Items in good condition and repair, and all repairs must be made in kind unless otherwise permitted in writing by Lessor, including renewal necessitated by repair to other portions of the Cars. If any Lessee Maintenance Item is removed, broken off or altered for any reason, or is missing, damaged, altered or replaced with a non-standard item, Lessee shall repair or replace it unless Lessor has performed such removal or modification or caused such damage or approved the removal or modification in writing; (ii) if Lessee has applied any interior and/or exterior protective coating to the Cars, the application, maintenance, renewal and removal thereof shall be performed by Lessee at its expense; (iii) if permitted by Lessor, all maintenance, repairs and replacements performed by Lessee shall be performed in accordance with the Interchange Rules and the rules of any other applicable regulatory body; (iv) Lessee shall not make any repairs without Lessor's prior written consent; (v) Lessee, at its sole expense, shall clean such Car, if necessary, so that it is empty and free from any residue; (vi) Lessee shall reimburse Lessor for all repairs necessitated by Lessee's improper loading of the Cars; and (vii) Lessee shall, within thirty (30) days of notification that Lessor has paid a bill for maintenance, repair or cleaning for which Lessee is responsible, reimburse Lessor for such payment which shall be deemed to be additional rent due hereunder.

7. Use of Cars.

(a) **Corrosion and Similar Damage.** Lessee shall use the Cars for the transportation of grain and grain products and Lessee shall not use the Cars for any other purpose, including, without limitation, any use of the Cars for the loading or shipping of commodities which contain active or passive chemicals or physical properties which may result in damage or deterioration to the Cars, or to their linings, paint, coatings, sealants or similar items.

8. Corrosion and Similar Damage.

(a) **Preliminary Inspection.** Upon the initial delivery of any Car, Lessor will, if requested by Lessee, arrange a joint inspection of the Car at a location designated by Lessor. Unless prior to the first loading of the Car, a joint inspection report setting forth the nature and amount of any then existing damage is signed by both parties, it shall be conclusively presumed that the Car was free of corrosion and all other commodity-related damage on the date such Car was delivered to Lessee.

(b) **Responsibility for Corrosion or Similar Damage.** If any Car suffers corrosion or similar deterioration or damage due to any commodity placed or allowed to accumulate in or on the Car, or to which the Car is exposed during any term of this Lease, Lessee shall be liable for the cost of correcting such deterioration or damage at the time the Car is returned to Lessor, regardless of whether or not such condition is due to Lessee's negligence. Such corrosion, deterioration or damage shall not be considered "normal wear and tear." Lessee agrees to defend, indemnify and hold harmless Lessor from any liability, losses, damages, injuries, claims, and demands and expenses, including reasonable attorney's fees and expenses, arising out of, or as a result of, the loading and/or shipping in the Cars of commodities which contain active or passive chemicals or physical properties which may result in corrosion, deterioration or damage to the Cars, their lining, paint, coatings, sealants, or similar items. Lessee shall ensure that all commodities loaded in the Cars comply with the terms of this Lease and all applicable tariffs, laws, rules and regulations.

9. Liability for Loss of Use of Cars and Damage to Commodities. Lessor is not liable for and Lessee hereby waives any claims for any loss of, or damage to, commodities loaded or shipped in the Cars, regardless of the cause. Except as provided in Section 5, Lessor is not liable for loss of use of any Car regardless of the cause.

10. Modifications.

(a) **Consent to Modifications.** Except for applying protective coatings referred to in Section 6, Lessee will not modify or alter the physical structure of any Car unless Lessor has previously approved the modification or alteration in

writing; provided, however, that this shall not relieve Lessee of its maintenance obligations.

(b) Required Modifications. If a Car is required to be changed or replaced or any additional equipment or appliance is required to be installed on any Car or any Car is required to be modified or altered, in each case in order to comply with changes to any applicable law, regulation, requirement or rule (a "Modification"), Lessor may elect to either (i) terminate this Lease, effective as of the date on which such Modification is required to be made, or (ii) make such Modification, pay the cost thereof, and increase the monthly rent. ~~If Lessor elects to terminate this Lease, Lessee may void such termination by paying Lessor the full cost of such Modification, and such Modification and all components thereof shall be considered to be accessions to the Car and title thereto shall be immediately vested in Lessor.~~ If Lessor ~~instead~~ elects to make the Modification, Lessee agrees to pay an additional monthly charge of \$1.75 per Car for each \$100.00 in Modification costs expended by Lessor on such Car, effective as of the date such Car is released from the Shop after application of such Modification.

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11. Casualty Substitution.

(a) Casualty While Not in Lessee's Possession. If any Car is damaged to the extent that the cost to repair such damage exceeds the Depreciated Value ("DV") as provided in the Interchange Rules and such Car was not in the possession, custody or control of Lessee or Lessee's agent and such damage has been reported in accordance with the Interchange Rules, such Car will be removed from the rental calculations of this Lease on the date Lessor was notified of such damage. Under such circumstances, Lessor shall be entitled to all casualty proceeds from the Car.

(b) Casualty While in Lessee's Possession. If any Car is damaged while in the possession, custody or control of Lessee or Lessee's agent, and the damage to such Car exceeds the DV of such Car, Lessor may, at its option, elect to either scrap such Car or repair such Car and pay an amount in excess of the DV, and Lessor will advise Lessee of Lessor's decision in writing within ten (10) days of Lessor's receipt of notification of such damage. Lessee will pay to Lessor an amount equal to the DV of such Car within thirty (30) days after receipt of Lessor's invoice for the DV amount. Such Car shall remain subject to the terms of this Lease, including the rental terms, until the date on which Lessor shall have received an amount equal to the DV of such Car. This provision is in no way a liquidated damages clause.

(c) Substitution of Car. Lessor may at its expense replace any Car that has been damaged beyond the DV of said Car with equipment of similar age, type and capacity upon prior written notice to Lessee. Lessor may also, at its expense and upon prior written notice to Lessee, replace any Car that Lessor determines is uneconomical for Lessor to repair or maintain with equipment of similar age, type, and capacity. Notwithstanding

(f) **No Waiver.** No delay, waiver, indulgence or partial exercise by Lessor of any right power, or remedy shall preclude any further exercise thereof or the exercise of any additional right, power or remedy.

(g) **No Warranties.** Lessor's obligations with respect to the Cars are expressly limited to those set forth in this Lease, and LESSOR MAKES NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, LESSOR MAKES NO WARRANTY OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, FREEDOM FROM INFRINGEMENT OR CLAIMS OF ANY PARTY OR OTHERWISE, NOR SHALL LESSOR HAVE ANY LIABILITY FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT OR INCIDENTAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS LEASE OR THE BREACH OF ANY WARRANTY OR OTHER PROVISION HEREUNDER BY LESSOR OR IN CONNECTION WITH THE LEASE, USE, POSSESSION OR OPERATION OF ANY CAR OR ARISING BY REASON OF ANY IMPERFECTION OR DEFECT IN THE CARS, REGARDLESS OF WHETHER SUCH DAMAGES ARE BASED IN TORT OR IN CONTRACT.

(h) **Notices.** Any notices required or permitted to be given hereunder shall be deemed given when sent by telecopy with verification of transmission or telex or made in writing, deposited in United States mail, registered or certified, postage prepaid, addressed to:

Lessor: Caldwell-Baker Company
Attention: Carle Baker, Jr. - President
5250 West 94th Terrace
Prairie Village, KS 66207
Fax Number: (913) 341-2378

Lessee: Southern Illinois Railcar Company
Attention: Fred L. Parsons - President
505 Buckeye Drive
Troy, Il 62294
Fax Number: (618) 667-4175

or to such other addresses as Lessor and Lessee may from time to time designate.

(i) **Applicable Law.** The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Kansas without regard to Kansas' choice of law doctrine.

(j) **Survival.** The obligations of Lessor and Lessee to make any payments hereunder shall survive the expiration or other termination of this Lease.

(k) **Entire Lease.** This Lease and any Schedules attached hereto represent the entire agreement. This Lease may not be modified, altered, or amended, except by an agreement in writing signed by Lessor and Lessee.

anything herein to the contrary, Lessor may, for any reason whatsoever upon written notice to Lessee, replace and substitute any Car with a railcar of similar age, type and capacity and Lessee and Lessor shall execute new Schedules covering such new railcars and subjecting them to the terms of this Lease.

12. Possession and Use.

(a) **Subordination: Use.** Lessee acknowledges that the Cars contained herein may be subject to certain covenants of Lessor's financial institutions or subject to the provisions of Lessor's lease with the actual owner (or agent for the owner) of the Cars, and Lessee agrees to be bound by same. This Lease and Lessee's rights are subject and subordinate to the rights and remedies of any lender, owner, or other party which finances the Cars.

(b) **Compliance.** Lessee agrees that at all times the Cars shall be used in compliance with all applicable laws, regulations and AAR rules. Lessee further agrees to comply with the load limitations stencilled on each Car.

(c) **Marks to Show Ownership or Security Interests.** Lessor may mark Cars to indicate the rights of Lessor or of any financing party. Lessee shall maintain such marks. Lessee shall not place any marking or lettering without the prior written consent of Lessor; except that Lessee may, without the consent of Lessor, board, placard or stencil the Cars with letters no larger than 2" high for the limited purpose of showing that the Cars are operated in Lessee's service. Such board, placard or stencil must be removed at Lessee's expense upon return of the Cars.

(d) **Lessee Liens.** Lessee shall not directly or indirectly allow to exist encumbrances of any kind on or with regard to any Cars or this Lease arising by, through or under it except those created for the benefit of Lessor or any financing party. Lessee shall within five (5) days notify Lessor in writing if any such encumbrance arises and shall immediately at its expense cause it to be discharged and removed.

13. Default.

(a) **Events of Default.** The occurrence of any of the following events shall be an Event of Default:

(i) The nonpayment by Lessee of any sum required herein to be paid by Lessee within fifteen (15) days after the date such payment is due;

(ii) The breach by Lessee of any other term or condition of this Lease which is not cured within thirty (30) days after written notice from Lessor specifying such breach;

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(iii) Lessee makes a general assignment for the benefit of creditors or fails to pay, or states that it is unable to pay, or is unable to pay its debts generally as they become due;

(iv) In the event that Lessee becomes the debtor in a Chapter 11 proceeding under the Bankruptcy Code, the failure of such entity to assume this Lease within sixty (60) days of the commencement of the Chapter 11 proceeding; or

(b) Lessor Remedies. Upon the occurrence of any Event of Default, Lessor at its option may exercise any or all of the following rights and remedies and any additional rights and remedies permitted by law and shall be entitled to recover all its costs and expenses including reasonable attorneys' fees and expenses in enforcing its rights and remedies:

(i) Terminate this Lease and recover damages; and/or

(ii) Proceed by any lawful means to enforce performance by Lessee of this Lease and/or to recover damages for any breach thereof; and/or

(iii) Terminate this Lease by written notice, and retake the Cars and thereafter recover as liquidated damages (and not as a penalty, it being acknowledged by the parties that actual damages are difficult or impossible to estimate and that the following is a reasonable estimate of the probable loss) any and all costs and expenses of termination, retaking and reletting (including, without limitation, reasonable attorney's fees and expenses) in addition to the present value (using a discount rate of five percent [5%] over the Nations Bank Prime Rate) of all rental for the unexpired balance of the Lease term then in effect unpaid as of said date of termination, reduced by the present value (using a discount rate of five percent [5%] over the Nations Bank Prime Rate) of the fair market rental value of the Cars for the unexpired balance of the Lease term as of said date (such fair market rental value to equal zero for any Car not returned by Lessee). Lessor may sell the Cars at public or private sale, with or without notice, advertisement, or publication, as Lessor may determine, or otherwise dispose of, hold, use, operate, lease to others or keep idle the Cars as Lessor in its sole discretion may determine, all free and clear of any rights of Lessee and without any duty to account to Lessee with respect to such action or inaction or for any proceeds with respect thereto; or

(iv) Without terminating this Lease, repossess the Cars, but in the event the Cars are delivered to Lessor or are repossessed, Lessor shall use reasonable efforts to relet the same or any part thereof to others upon a reasonable rental and such other terms as it may see fit. The proceeds of any such reletting shall first be applied to the expenses (including reasonable attorney's fees and

expenses) of retaking, repairing (if necessary) and reletting of the Cars and delivery to the new lessee and then to the payment of rent due under this Lease. Lessee shall pay any deficiency remaining due after so applying the proceeds as the same shall accrue. The election by Lessor to relet the Cars and the acceptance of a new lessee shall not operate to release Lessee from liability for any existing or future default in any other covenant or promise herein contained, including, without limitation, the obligation to pay rent.

The obligation to pay any deficiency or any sum or sums due and unpaid or any damages suffered by reason of Lessee's default hereunder shall survive the termination of the Lease and the retaking of the Cars. The remedies in this Lease shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies existing at law or in equity.

14. Expiration or Other Termination.

(a) **Return of Cars.** Upon the expiration or other termination of this Lease with respect to any Car, Lessee, at its expense, shall return such Car to Lessor at such shop, storage yard, terminal facility or other interchange point designated by Lessor (the "Return Location").

(b) Condition Upon Return.

(i) Each Car shall be returned to Lessor (A) free of all damage caused by the negligence or willful misconduct of Lessee or its employees, agents and licensees; (B) free of all accumulations or deposits from commodities; and (C) free of corrosion and any other commodity-related damage. Any item that is damaged or worn beyond what is considered to be normal by the original component manufacturer shall be deemed to have been damaged by the negligence or willful misconduct of Lessee or its employees, agents or licensees and shall be Lessee's responsibility. In addition, if Lessor has permitted Lessee to place any logos or special paint on any Car, Lessee shall have such logos or special paint removed.

(ii) Lessor may inspect any Car which is returned to it, within a reasonable time after such return and Lessee shall be entitled to participate in any such inspection. Lessee agrees to pay Lessor, within thirty (30) days of receipt of an invoice, for all repairs, replacements and cleaning for which Lessee is responsible but which were performed by Lessor.

(c) **Holdover Rent.** Until any Car is returned to Lessor, Lessee shall continue to pay rent for such Car and Lessee shall make all other payments and perform all other obligations under this Lease as though the expiration or other termination had not occurred. If Lessor requests the return of any Car and

such Car has not been returned, Lessee upon notice from Lessor, shall pay one hundred fifty percent (150%) of the rent in effect immediately prior to expiration or termination. Nothing in this Section shall give Lessee the right to retain possession of any Car after expiration or other termination of this Lease with respect to such Car. This clause is not a limitation on Lessor's default remedies.

15. Record Keeping.

Lessee agrees to furnish Lessor promptly, at Lessor's request, with complete and accurate information reasonably requested by Lessor pertaining to the Cars, their movement, and any repairs and maintenance to the Cars which was not performed by Lessor.

16. Inspection: Financial Statements.

Lessee shall permit Lessor reasonable access to Lessee's property during normal business hours to examine the Cars or Lessee's records relating to the Cars. Lessor shall provide Lessee at least twenty-four (24) hours prior notice of inspection. Lessee shall, within ninety (90) days after the close of its fiscal year during the initial term and any renewal term of this Lease, provide Lessor with Lessee's balance sheet and profit and loss statement certified by Lessee's chief financial officer. Such financial statements may be disclosed to Lessor's lenders and Lessor's Certified Public Accountant.

17. Insurance.

Lessee shall at its expense carry and maintain on the Cars while on Lessee's property or under Lessee's custody or control commercial general liability insurance in such amounts and against risks customarily insured against by Lessee. Lessee's liability policies shall name Lessor and any owner of the Cars and any lender holding a lien on such Cars as additional insureds. Upon execution hereof, and annually thereafter, Lessee shall provide Lessor and any such lender with insurance certificates from Lessee's insurance carrier evidencing the insurance required hereunder. Lessee's insurance shall be primary without right of contribution from any insurance carried by Lessor.

18. Taxes.

Lessor shall pay, and shall defend and indemnify Lessee against, all property taxes assessed against or levied upon the Cars and shall file all property tax returns. Lessee shall forward to Lessor upon receipt of copies of any correspondence, notifications of proposed assessments and tax bills it may receive with respect to such property taxes. Lessee shall be liable for, and shall indemnify, defend and hold Lessor harmless from and against, all other taxes, duties or government

impositions with respect to the Cars which arise by, through or under Lessee.

19. Indemnities.

Lessee shall indemnify, defend and hold Lessor harmless from and against any loss, liability, claim, cost, damage or expense (including reasonable attorney's fees) arising out of or in connection with the possession, leasing, subleasing, storage, use or return of any Car from the date of acceptance by Lessee to the date of return and acceptance by Lessor, excepting, however, any loss, liability, claim, cost, damage or expense which is attributable to the negligence or willful misconduct of Lessor, its agents or employees, or accrues with respect to any of the Cars while such Car is in a repair shop undergoing repairs at the direction of Lessor.

20. Miscellaneous.

(a) **No Assignment Without Lessor Consent.** This Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns; PROVIDED, HOWEVER, THAT LESSEE MAY NOT WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR PLEDGE OR ASSIGN THIS LEASE OR ANY OF ITS RIGHTS OR OBLIGATIONS HEREUNDER. ANY PURPORTED ASSIGNMENT IN VIOLATION HEREOF SHALL BE VOID.

(b) **Subleases.** Lessee may sublease the Cars provided that: (i) Lessee shall notify Lessor of any sublease and the terms thereof; (ii) Lessee shall continue to remain liable to Lessor under this Lease; (iii) any sublease shall contain language which expressly makes such sublease subject and subordinate to this Lease and to the rights of the financing parties described in Subsection 10(a); (iv) such sublease shall provide that the Cars will be used only within the boundaries of permitted use set forth in Subsection 7(a) and in accordance with all of the terms and conditions set forth herein upon Lessee.

(c) **Assignment by Lessor.** All rights and obligations of Lessor under this Lease, and Lessor's interest in the Cars and in the rents, may be assigned, pledged, or transferred in whole or in part without notice to or consent by Lessee.

(d) **Additional Documents.** Both parties agree to execute the documents contemplated by this transaction and such other documents may be required in furtherance of any financing agreement entered into by Lessor or its assignees in connection with the acquisition, financing or use of the Cars.

(e) **Parties.** Lessee expressly acknowledges and agrees that they are jointly and severally liable for the payment of rent and performance of all obligations to be paid or performed by Lessee hereunder.

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(l) **Counterparts.** This Lease may be executed in any number of counterparts, and such counterparts together shall constitute one contract.

(m) **Binding Upon Parties.** This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

(n) **Recording.** Upon request by Lessor, Lessee shall join in the execution of a memorandum or short form of this Lease for use in recordation under 49 U.S.C.A. Section 11303 or such recordation as Lessor reasonably deems appropriate. Said memorandum or short form of lease may describe the parties, the Cars being leased and the term of this Lease, including any options to extend, and shall incorporate the Lease by reference.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first above written.

CALDWELL-BAKER COMPANY

By: Carle Baly
Title: President
Date: 9/2/97

SOUTHERN ILLINOIS RAILCAR CO.

By: [Signature]
Title: Vice President
Date: 8/29/97

EXHIBIT A

Description of Railcars

Up to Four Hundred Twenty (420) covered hopper railcars, having capacities of 4,740 - 4,785 cubic feet, bearing reporting marks as follows:

[Car Numbers will be provided by Lessor in the near future]

THIS AGREEMENT is made as of October 20, 1997, pursuant to the "Railcar Lease Agreement" ("Lease") dated August 29, 1997, between Caldwell-Baker Company, a Delaware corporation ("Lessor") and Southern Illinois Railcar Company, an Illinois corporation ("Lessee").

WHEREAS, in consideration of the covenants, promises and undertakings of the parties in Lease, and in consideration of continued good will and cooperation by both Lessor and Lessee, the parties hereby agree as follows:

WHEREAS, Lessor and Lessee desire to enter in to an agreement to modify lease language pursuant to the requirements of Section "20. Miscellaneous (k) Entire Lease" which states that the Lease "may not be modified, altered, or amended, except by an agreement in writing signed by Lessor and Lessee": and

WHEREAS, on page four of Lease, under "Section 6. Maintenance (c) Maintenance by Lessee," a sentence in the paragraph reads as follows: "In no event shall Lessee perform work upon the Car(s) without prior written permission from Lessor without waiving any rights or remedies." The phrase "without waiving any rights or remedies" shall be removed from the sentence. The sentence shall be modified to read as follows: **"In no event shall Lessee perform work upon the Car(s) without prior written permission from Lessor;"** and

WHEREAS, on page four of Lease, under "Section 6. Maintenance (c) Maintenance by Lessee," a sentence in the paragraph reads as follows: "If, however, unauthorized work is performed by Lessee, Lessee will be responsible for such work and rent will not abate." The sentence shall be modified to read as follows: **"Without waiving any rights or remedies of Lessor, if unauthorized work is performed by Lessee, Lessee will be responsible for such work and rent will not abate."**

IN WITNESS WHEREOF, the parties have executed this agreement as of October 29, 1997.

Caldwell-Baker Company
By: [Signature]
Title: President
Date: 10/21/97

Southern Illinois Railcar Company
By: [Signature]
Title: VICE PRESIDENT
Date: 10/29/97

	A	B	C	D	E	F	G	H
1	464101	464281	464346	464413	464470	464527	464587	464721
2	464115	464282	464347	464414	464471	464528	464589	464728
3	464165	464283	464348	464415	464472	464529	464590	464735
4	464173	464284	464349	464416	464473	464530	464592	464746
5	464177	464285	464350	464417	464474	464531	464593	464756
6	464201	464286	464351	464418	464475	464533	464595	464762
7	464207	464287	464352	464419	464476	464535	464596	464769
8	464215	464288	464353	464420	464477	464536	464597	464796
9	464216	464289	464355	464421	464478	464537	464599	464803
10	464217	464290	464356	464422	464479	464538	464601	464805
11	464218	464291	464357	464423	464480	464539	464602	464815
12	464219	464292	464358	464424	464481	464541	464603	464828
13	464220	464293	464359	464425	464482	464542	464604	464840
14	464221	464294	464360	464426	464483	464543	464605	464850
15	464222	464295	464361	464427	464484	464544	464606	464860
16	464224	464296	464362	464428	464485	464545	464607	464863
17	464225	464297	464364	464429	464486	464546	464609	464869
18	464226	464298	464366	464430	464487	464547	464610	464876
19	464227	464299	464367	464431	464489	464548	464611	464877
20	464228	464300	464368	464432	464490	464549	464612	464879
21	464229	464301	464369	464433	464491	464550	464613	464883
22	464230	464302	464370	464434	464492	464551	464614	464889
23	464231	464303	464371	464435	464493	464552	464615	464894
24	464232	464304	464372	464436	464494	464553	464616	464895
25	464233	464305	464373	464438	464495	464554	464617	464896
26	464234	464306	464374	464439	464496	464555	464618	464898
27	464235	464307	464375	464440	464497	464556	464619	464900
28	464236	464308	464376	464441	464498	464557	464620	464903
29	464237	464309	464377	464442	464499	464558	464621	464905
30	464238	464310	464378	464445	464500	464561	464622	464908
31	464240	464311	464379	464446	464501	464562	464623	464910
32	464241	464312	464380	464447	464502	464563	464625	464911
33	464242	464313	464381	464448	464503	464564	464626	464912
34	464243	464314	464382	464449	464504	464565	464627	464913
35	464244	464315	464383	464450	464505	464566	464628	464914
36	464245	464316	464384	464451	464506	464567	464629	464915
37	464246	464317	464386	464452	464507	464568	464630	464916
38	464247	464321	464387	464453	464508	464569	464631	51005
39	464248	464326	464391	464454	464509	464570	464632	
40	464249	464332	464397	464455	464510	464571	464633	
41	464269	464334	464400	464456	464511	464572	464636	
42	464270	464335	464401	464457	464512	464573	464639	
43	464271	464336	464402	464458	464513	464574	464640	
44	464272	464337	464403	464459	464514	464575	464646	
45	464273	464338	464405	464460	464515	464576	464649	
46	464274	464339	464406	464461	464516	464577	464653	
47	464275	464340	464407	464464	464517	464579	464656	
48	464276	464341	464408	464465	464518	464580	464673	
49	464277	464342	464409	464466	464519	464582	464694	
50	464278	464343	464410	464467	464520	464583	464696	
51	464279	464344	464411	464468	464522	464585	464703	
52	464280	464345	464412	464469	464525	464586	464704	

AFFIDAVIT

City of Washington)
) ss.
District of Columbia)

Robert A. Wimbish, being duly sworn according to the law,
deposes and states as follows:

1. I am submitting for recordation with the Surface
Transportation Board the attached copy of a "Lease Agreement"
dated as of August 29, 1997 (as amended October 20, 1997), by and
between Caldwell-Baker Company ("Lessor") and Southern Illinois
Railcar Company ("Lessee").

2. I have compared the attached copy with the original
document, and I have found the attached copy to be complete and
identical in all respects to the original document.

Robert A. Wimbish
(Signature)

Robert A. Wimbish
(Printed or Typed)

Subscribed and sworn to before me, a Notary Public, in
and for the City of Washington, District of Columbia, this 15th
day of May, 1998.

My Commission expires:

03/31/2001

Mary Robinson
(Notary Public)